

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STEVEN WAYNE BONILLA,

Plaintiff,

v.

CALIFORNIA SUPREME COURT, et al.,

Defendants.

Case No. [16-cv-04753-VC](#) (PR)

**ORDER OF DISMISSAL WITH
PREJUDICE**

Plaintiff Steven Wayne Bonilla is a state prisoner who has filed a *pro se* complaint under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the California Public Records Act (“CPRA”), Cal. Gov. Code § 6250 *et seq.*, against the California Supreme Court, the California Appellate Project and David Nickerson.¹ Bonilla has been disqualified from proceeding *in forma pauperis* under 28 U.S.C. § 1915(g) unless he is “under imminent danger of serious physical injury” at the time he filed his complaint. 28 U.S.C. 1915(g); *In re Steven Bonilla*, No. C 11-3180 CW (PR); *Bonilla v. Dawson*, No. C 13-0951 CW (PR).

The allegations in this complaint do not show that Bonilla was in imminent danger at the time of filing. Therefore, he may not proceed *in forma pauperis*. Furthermore, he may not proceed even if he pays the filing fee because FOIA applies only to agencies of the executive branch of the federal government, not to the defendants. *See St. Michael’s Convalescent Hosp. v. California*, 643 F.2d 1369, 1373 (9th Cir. 1981). Likewise, the CPRA does not apply to the defendants because it only applies to state agencies. *See California State Univ. v. Sup. Ct.*, 90 Cal. App. 4th 810, 822 (2001). The judiciary is not a state agency within the meaning of the

¹ This civil case was incorrectly labelled on the Court docket as a petition for a writ of mandamus. The Clerk is directed to correct this error.

CPRA. *See id.* at n.5. The California Appellate Project is not a state agency; it is a non-profit corporation that assists private counsel appointed by the California Supreme Court to represent indigent defendants in capital cases on direct appeal and habeas corpus proceedings. *See* www.capsf.org/About-CAPSF.asp Finally, David Nickerson is not a state agency; he is identified in the complaint as an attorney.

Furthermore, the relief Plaintiff seeks pertains to his ongoing attempts to invalidate his conviction. Therefore, such claims, if raised, must be brought by Bonilla's counsel in his pending federal habeas corpus action, *Bonilla v. Ayers*, No. C 08-0471 YGR (PR).

Accordingly, this complaint is dismissed with prejudice. The Clerk of the Court shall enter a separate judgment and close the file.

IT IS SO ORDERED.

Dated: September 1, 2016



VINCE CHHABRIA
United States District Judge